

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

FREDRICK LACHUN HARALSON

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09CV700-DPJ-FKB

SHERIFF MIKE LEE, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

This cause is before the court on Defendants' motion to dismiss for failure to prosecute. The undersigned recommends that the motion be granted.

When Plaintiff initiated this lawsuit, he was incarcerated at the Scott County Detention Center. He was granted *in forma pauperis* status by order dated December 11, 2009. In that order, the court stated that failure to advise the court of a change of address could result in dismissal of his case. On December 29, 2009, Plaintiff submitted a change of address to the court, indicating that he was no longer in custody. However, on March 15, 2009, Defendants filed a notice with the court indicating that mail sent to Plaintiff at the address provided to the court had been returned as undeliverable. Furthermore, Plaintiff failed to appear at the omnibus hearing on March 31, 2009. For these reasons, the undersigned recommends that this action be dismissed without prejudice.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636; Fed. R.

Civ. P. 72(b)(as amended, effective December 1, 2009); Douglass v. United Services Automobile Association, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Respectfully submitted, this the 30TH day of April, 2010.

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE